



Frequently Asked Questions about Collective Bargaining

Updated February 9, 2005

1. **What are the mandatory subjects of bargaining?** Mandatory subjects of bargaining are those topics defined in Iowa Code Section 20.9 that, by law, must be negotiated when requested by labor or management. These include wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other mutually acceptable matters.
2. **Who is covered?** In FY 2004, executive branch union employees totaled 15,691 or 81.7 percent, excluding Fair Authority, Community-Based Corrections or employees of Regents institutions.

UNION	PRIMARY BARGAINING AGENT	EMPLOYEES REPRESENTED
American Federation Of State, County and Municipal Employees-Iowa Council 61 (AFSCME)	Jan Corderman President, AFSCME	12,615 employees including clerical, technical, blue collar, fiscal, staff, security and patient care bargaining units
United Electrical, Radio and Machine Workers of America Local 893-Iowa United Professionals (UE/IUP)	Bill Austin President, UE/IUP	2,509 employees including social service and science bargaining units
State Police Officers Council (SPOC)	Mark Bowlin President, SPOC	567 employees including the public safety bargaining units

3. **What is the timetable?** Iowa Code authorizes the Public Employee Relations Board (PERB) to set scheduled intervals and a date by negotiations are completed no later than 120 days prior to the certified budget submission date of the year in which the agreement becomes effective.

Only the exchange of initial proposals is subject to the State's open meeting requirements. Negotiating sessions, strategy meetings, mediation and arbitrators deliberation are closed to the public.

Steps and prescribed intervals are:

- Representatives of the union present its initial bargaining position. Session 1 is scheduled to allow completion of the last possible step no later than March 15, 2005.

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- Representatives of the State present initial bargaining position. Session 2 is held no later than two weeks following Session 1. The State's proposal is based on items in the union's initial proposal, its experience during the previous contract period, and results of employee focus groups. It is designed for a setting where "give and take" bargaining is an integral part of the process.
- Negotiation sessions are held. Multiple bargaining sessions are scheduled in advance as agreed by the union and State, typically in December, January and February of the bargaining period.
- If needed, a mediator is appointed. If an impasse exists following negotiations or as requested by either union or State, the PERB appoints a mediator who works with both parties to develop a compromise.
- If needed, a fact finder is appointed. In the event that a mediator is unsuccessful, a fact finder is appointed 10 days after appointment of mediator. Unions and the State may agree to waive fact-finding. The fact finder's issues are delivered to the union and State within 15 days after appointment of fact finder.
- Public employer and employee organizations accept/reject fact-finder's recommendation. This step takes place immediately unless an accept/reject vote of governing body and members of the employee organization is required. If a vote is required, it must take place within five days. If needed, the fact finder's report is made public by the PERB. The report is made public ten days after it is submitted if dispute continues.
- If needed, arbitrators are appointed. If an impasse persists after the fact finder's recommendations are made public and one or both parties to negotiations requests arbitration, an arbitrator selects one side's proposal to be contracted. The arbitrator takes into account ability to pay, bargaining history and outcomes of similar negotiations in other comparable cities or states. The arbitrator's decision is due and made public within 15 days of first arbitration meeting. The final deadline for negotiated agreement or arbitrated settlement is March 15, 2005.
- The contract is signed. If needed, post-contract revisions are negotiated. Once a contract has been signed, the collective bargaining agreement can be reopened for negotiations if both parties agree. Both parties must agree upon the terms for reopening the contract.

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4. **What current trends may influence the outcome of negotiations?** Wage trend information is extracted from decisions of fact finders, arbitrators and voluntary settlements in similar settings. Trends for 2005 reflect a slight decline from the percentage increases of previous years, but the rate remains above 3.00 percent.

YEAR	EMPLOYEE GROUP	AVERAGE PERCENTAGE* INCREASE	NEGOTIATION TYPE
2003	Iowa largest cities and counties	3.25	6 fact finding reports 4 arbitration awards
2004	Iowa largest cities and counties	3.15	2 fact finding reports 3 arbitration awards
2004	Iowa, largest cities and counties	2.61	Multiple settlements
2005	Iowa bargaining units work similar to AFSCME	3.47	5 settlements
2006	Iowa bargaining units work similar to AFSCME	3.02	2 settlements
2004	Iowa largest cities and counties, work similar to SPOC	3.23	Multiple settlements
2004	Other Iowa public safety bargaining units	3.28	7 settlements
2006	Other Iowa public safety bargaining units	2.88	3 settlements

*Settlements increase percentages do not include wage increase dues to step advancement or any increased cost of insurance.

5. **What key issues will affect the negotiations currently underway?** Health insurance costs are a continuing concern. While costs are declining nationally, the cost for state employee coverage is not decreasing. For plan year 2005, the health insurance program is expected to cost about \$240 million. The State will pay on average \$8,068 per year per State employee, or 92 cents of every health care dollar spent; the average employee will spend \$708.73. The Department of Management (DOM) projects a 15 percent increase in premium expense for plan year 2006.

Layoffs remain a concern. Layoffs totaled 199.5 in FY 2003, 62 in FY 2004 and 127 to date in FY 2005 (executive branch employees without regard to bargaining status.) Layoffs disrupt employee lives and workplaces. Continued cuts in staff will affect services to citizens.

6. **How does the State's budget/economic outlook affect negotiations?** DOM and the Governor provide input on the State's economic picture at the beginning of negotiations. This information forms a rationale for evaluating the reasonableness of the State's offer.
7. **What is the history of collective bargaining with Iowa's public employees?** Iowa's Public Employment Relations Act was signed into law by Governor Robert Ray on April 23, 1974 and

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became effective July 1, 1975. Its avowed public purpose is the promotion of "harmonious and cooperative relationships between government and its employees." Specifically, the statute grants employees of the State and its political subdivisions, including cities, counties, and school districts, the right to join and participate in employee organizations, and the right to bargain collectively through such employee organizations.

The act contains detailed procedures by which employees can exercise those rights, including provisions for the determination of appropriate bargaining units, representation elections in which employees may select an employee organization to bargain on their behalf, prohibited practice provisions which prescribe certain conduct and activities, and provisions requiring the periodic reporting of finances by employee organizations.

The administration of this act is vested with the Public Employment Relations Board, a quasi-judicial administrative agency that operates under the Iowa Administrative Procedure Act. The board conducts hearings and issues legal decisions in unit determination and representation matters, prohibited practice complaints and petitions for declaratory ruling. A staff of administrative law judges also performs, by delegation, this function.

The board also administers other provisions of the act, providing mediators, fact finders and arbitrators in collective bargaining impasses. It collects data and conducts studies relating to wages, hours, benefits, and other terms and conditions of public employment; and it collects registration reports and annual reports, including financial statements, from employee organizations. It also adjudicates discipline and grievance appeals filed by state employees and not covered by a collective bargaining agreement

Today there are approximately 160,000 public employees in Iowa, including state employees and some 2,388 public employers. Nearly half of those employees have exercised rights granted by the statute and belong to units that have selected an employee organization to represent them in collective negotiations with their employers. The Public Employment Relations Board oversees those negotiations and assures that the rights of these employees are preserved and protected.

8. **What effect did the 1991 lawsuit, *AFSCME/Iowa Council 61 et al v. Branstad* have on collective bargaining?** This case was an important test of Iowa's Public Employment Relations Act and its provision for binding arbitration. Negotiations with AFSCME, UE/IUP and SPOC initiated in August 1990 reached an impasse at a time of state budget stress. Binding arbitration awarded pay increases to all three unions and the General Assembly appropriated money to fund the increases. Iowa Governor Terry Branstad vetoed the appropriations for the pay increases, arguing, "\$23.4 million for salary increases, particularly when paired with the \$10.6 million for salary increases in HF 479 for employees of the Board of Regents, is far beyond what the state can afford under these difficult fiscal circumstances."

The unions filed suit to enforce the arbitrator's decisions. The Iowa District Court ruled in favor of the union plaintiffs, finding that "...the awards of the arbitrators constitute a final binding agreement. This is a contract that binds the State."

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Governor Branstad appealed the ruling to the Iowa Supreme Court, which affirmed the lower court's decision. Its decision held: "Whatever strengths could be perceived in the State's position cannot be used to frustrate its contractual obligations. Contractual rights enjoy strong validation in both the federal and our own Constitution. It would be no favor to the State to exonerate it from contractual liability. To do so would seriously impair its ability to function." The ruling continued: "The shortage of funds, at least to the extent of liability on these contracts, can be ascribed to discretionary funding choices."

The Court's ruling made it clear that arbitration decisions were binding obligations of the State. The decision on how to fund the award, "including political considerations that go into the appropriation process" was left to the General Assembly and the Governor. It also affirmed the lower court's opinion that state employees should be paid interest on the unpaid increases at the rate of 5 percent from the due date until paid. However, it did not find that the Governor's item veto was invalid.

In June 1992, the General Assembly convened in special session to provide the funding necessary to satisfy the contractual obligations to its unions. A smaller award was also provided to non-contract employees.

9. **What roles do government branches and agencies play in the collective bargaining process?**

The federal government. Congress enacted the *National Labor Relations Act* (NLRA) in 1935. The public policy announced in the Act continues today and is based on the assumption that the public interest is best served by having employees organized by labor unions. Although state law governs state and local public sector bargaining, National Labor Relations Board practice and precedent heavily influence the state labor boards that interpret and administer the state bargaining laws.

The Iowa General Assembly appropriates funding for salaries and benefits for all state employees, including those covered by collective bargaining agreements.

The Governor provides input that is considered during development of the State's proposals. He approves all settlements on behalf of the State.

The Iowa Department of Management provides input during development of the State's proposals and assists during negotiations by determining the actual cost of proposals. A DOM representative attends each bargaining session.

The Iowa Department of Administrative Services (DAS). As defined in Chapter 8A.402 of the Iowa Code, the DAS director serves as chief negotiator during the State's collective bargaining activities.

10. **Who negotiates on behalf of the State, and why?** A labor relations team with the following members is established for each contract:

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- Chief Negotiator is, by statute, the DAS director;
- Chief Spokesperson is an external legal consultant, James C. Hanks;
- A lead team member from the DAS-HRE labor relations staff;
- A representative of IDOM;
- A representative of DAS-HRE;
- A management representative from departments whose employees are covered by a collective bargaining agreement.

The lead team member develops an initial contract proposal. The Chief spokesperson conducts negotiations with the approval of the Governor. The team provides advice and counsel regarding issues that may influence the union's initial proposal. The Chief spokesperson also facilitates communication among team members and the Governor.

The Chief Spokesperson External legal consultant **James C. Hanks** is employed by the Des Moines law firm, Ahlers, Cooney, Dorweiler, Haynie, Smith & Albee, P.C. The periodic, recurring nature of collective bargaining negotiations and Mr. Hanks' specialized experience in local government and employment law make this consultory relationship more cost-effective than retaining full-time staff within DAS. While the cost of these services varies according to the time required, the estimated cost per two-year contract period is about \$65,000.

Mr. Hanks is well qualified for his role. He attended the University of Iowa and received his B.A. in 1972 and his J.D., with high distinction, in 1975. He is a member of Phi Beta Kappa and was nominated for a Rhodes scholarship in 1972 by the University of Iowa. He was admitted to the Iowa Bar in 1975 and to the Nebraska Bar in 1976. He is a member of the firm's Local Government Law and Employment Law and General Litigation departments.

11. **Why cultivate good ongoing relationships with collective bargaining units?** Good labor-management relationships are critical because these relationships affect employee performance, and, in turn, the quality of goods and services provided by state employees to the citizens of Iowa. It is important to recognize that conflict is always present in the workplace. These relationships provide a vehicle with which to address and solve problems that get in the way of good performance.